

1
2
3
4

5 IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 || LEO P. MARTINEZ,

No. C 09-3544 WHA (PR)

10 Plaintiff,

ORDER OF DISMISSAL

11 || v.

12 || CDC STATE OF CALIFORNIA,

Defendant.

15 This is a civil rights case brought pro se by a state prisoner. The only defendant named
16 is the California Department of Corrections, a state agency. The California Department of
17 Corrections and Rehabilitation, as it is now known, cannot be sued in federal court. *See Brown*
18 *v. Cal. Dep't of Corrs.*, 554 F.3d 747, 752 (9th Cir. 2009) (California Department of Corrections
19 and California Board of Prison Terms entitled to 11th Amendment immunity). In addition,
20 plaintiff's claim is for a correctional officer's negligent loss of some of his personal property.
21 Neither the negligent nor intentional deprivation of property states a due process claim under
22 Section 1983 if the deprivation was random and unauthorized, as seems to be the case here. *See*
23 *Parratt v. Taylor*, 451 U.S. 527, 535-44 (1981) (state employee negligently lost prisoner's
24 hobby kit), *overruled in part on other grounds*, *Daniels v. Williams*, 474 U.S. 327, 330-31
25 (1986); *Hudson v. Palmer*, 468 U.S. 517, 533 (1984) (intentional destruction of inmate's
26 property). For these reasons, the complaint is **DISMISSED** with prejudice. The clerk shall close
27 the file.

28 || IT IS SO ORDERED.

Dated: August 31, 2009.

Wm. Alsup
WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

United States District Court

For the Northern District of California

1 G:\PRO-SE\WHA\CR.09\MARTINEZ3544.DSM.wpd

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28